

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

Bee Forest Products, Inc.,

Case No. _____

Plaintiff,

NOTICE OF REMOVAL

vs.

Western National Mutual Insurance Company,

Defendant.

Defendant Western National Mutual Insurance Company (“Western National”) by and through its undersigned counsel, and for its Notice of Removal of an action filed in Circuit Court, Buffalo County, Wisconsin to the United States District Court for the Western District of Wisconsin, states as follows:

REMOVAL IS TIMELY

1. On or about March 20, 2020, Plaintiff Bee Forest Products, Inc. commenced an action in Circuit Court, Buffalo County, *Bee Forest Products, Inc. v. Western National Mutual Insurance Company*, case file 2020CV000017 (the “State Court Action”), against Defendant Western National.

2. Pursuant to 28 U.S.C. § 1446(a), a complete copy of all process and pleadings provided to Defendant in the State Court Action are attached as Exhibit 1.

3. This Court is in the district and division “embracing the place where [the State Court] action is pending.” 28 U.S.C. § 1441(a). The Circuit Court for Buffalo County is located in the Western District of Wisconsin.

REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION

The Amount in Controversy Exceeds \$75,000

4. This action is removable pursuant to 28 U.S.C. § 1441(a), because it is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332, in that there is complete diversity between all properly joined parties, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

5. Plaintiff's complaint demands relief in an amount of \$86,079.45. (Ex. 1 at ¶¶ 8, "WHEREFORE"(b).) The amount in controversy therefore exceeds \$75,000. *Gavin v. AT&T Corp.*, 464 F.3d 634, 640 (7th Cir. 2006) (noting if plaintiff's complaint alleges the essential facts for federal diversity jurisdiction, that is sufficient for removal).

6. Western National denies the allegations in Plaintiff's complaint and denies liability to Plaintiff. Notwithstanding that the jurisdictional requirements have been met, nothing in this Notice of Removal should be construed as an admission that Plaintiff is entitled to any judgment or relief in their favor.

There is Complete Diversity Between Plaintiff and Western National

7. "Section 1332 requires complete diversity: no plaintiff may be a citizen of the same state as any defendant." *Altom Transport, Inc. v. Westchester Fire Ins. Co.*, 823 F.3d 416, 420 (7th Cir. 2016); 28 U.S.C. § 1332. For purposes of establishing diversity jurisdiction, "a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business." 28 U.S.C. § 1332(c)(1). To determine jurisdiction, courts look to the parties' status at the lawsuit's filing. *Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567, 570, 124 S.Ct. 1920, 158 L.Ed.2d 866 (2004).

8. Plaintiff is a Wisconsin corporation with its principal place of business located in Mondovi, Wisconsin. (Ex. 1 at ¶ 1.)

9. Western National is a Minnesota corporation with its principal place of business located in Edina, Minnesota. (Ex. 1 at ¶ 2.)

Diversity Jurisdiction Exists

10. As set forth in Paragraphs 8 and 9 above, this Court has diversity jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1332, and the action that Plaintiff served in State Court is properly removable under 28 U.S.C. § 1441.

**WESTERN NATIONAL HAS COMPLIED WITH
THE REMOVAL PROCEDURES**

11. As required by 28 U.S.C. § 1446(a), Western National has attached as Exhibit 1 to this Notice of Removal a copy of all process, pleadings, and orders provided to it relating to the State Court Action.

12. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be served upon Plaintiff and filed with the Clerk of Circuit Court, Buffalo County, Wisconsin.

DEFENDANTS RESERVE ALL DEFENSES

13. The answer or other response to the complaint was not due prior to filing this Notice of Removal. By filing this Notice of Removal, Western National does not waive any defense or counterclaim that may be available to it including jurisdictional defenses. As required under Federal Rule of Civil Procedure 81(c)(2), Western National will respond to the complaint within the time set forth therein, unless an extension of the deadline is properly obtained pursuant this Court's approval.

WHEREFORE, Western National respectfully removes the above-referenced cause of action from Circuit Court, Buffalo County, Wisconsin to the to the United States District Court, Western District of Wisconsin and requests that no further proceedings be had in the State Court Action.

Dated: April 9, 2020

s/Bradley R. Prowant

Anthony J. Novak (1087498)

Bradley R. Prowant (0396079)

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